

ESTTA Tracking number: **ESTTA672013**

Filing date: **05/13/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91220189
Party	Defendant JetBlack Aviation, Inc.
Correspondence Address	Daniel R. Frijouf Frijouf, Rust & Pyle, P.A. 201 East Davis Blvd. Tampa, FL 33606 frijouf@frijouf.com
Submission	Answer
Filer's Name	Daniel R. Frijouf
Filer's e-mail	frijouf@frijouf.com
Signature	/d/
Date	05/13/2015
Attachments	XJET.15002 Ex Answer.pdf(25170 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of United States Trademark Application Serial No. 85/665,054.

JETBLUE AIRWAYS CORPORATION,)	
)	
Opposer,)	Opposition No.: 91220189
)	
v.)	
)	
JETBLACK AVIATION, INC.,)	
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

COMES NOW, Jetblack Aviation, Inc. (“Applicant”), by and through its attorneys, and hereby answers and asserts affirmative defenses to the Notice of Opposition, filed by Jetblue Airways Corporation (“Opposer”). Unless specifically admitted by Applicant herein, Applicant denies each and every allegation in Opposer’s Notice of Opposition.

Applicant’s Answer to the First, Non-enumerated
Paragraph of the Notice of Opposition

As to Opposer’s first non-enumerated “preamble” paragraph, Applicant admits that this purports to be an Opposition to United States Application No. 85665063 (“Applicant’s Mark”). Applicant denies that there is or will be any damage, whatsoever, to the Opposer by reason of Applicant’s Mark, or any resulting registration on the Principal Register of the United States Patent and Trademark Office. Applicant also denies the remaining allegations in Opposer’s preamble paragraph.

**Applicant's Answers to the Specifically Enumerated
Paragraphs of the Notice of Opposition**

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1, and therefore denies the same.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2, and therefore denies the same.

3. Applicant admits that the United States Patent and Trademark Office database reflects that Opposer is the listed owner of U.S. Registration Nos. 2451955, 2449988, 3163120, 3163121, 4289126 and 4638226. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 3, and therefore denies the same.

4. Applicant denies Opposer's Marks are "famous" as defined under 15 U.S.C. § 1125(c)(1). Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 4, and therefore denies the same.

5. Applicant denies Opposer's Marks are "famous" as defined under 15 U.S.C. § 1125(c)(1). Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 5, and therefore denies the same.

6. Applicant denies the allegations of Paragraph 6 of the Notice of Opposition.

7. Applicant denies the allegations of Paragraph 7 of the Notice of Opposition.

8. Applicant denies the allegations of Paragraph 8 of the Notice of Opposition.

9. Applicant denies the allegations of Paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations of Paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations of Paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations of Paragraph 12 of the Notice of Opposition.

Applicant's Answer to the Non-enumerated "Prayer for Relief"
Clause of the Notice of Opposition

As to Opposer's non-enumerated prayer for relief *qua* "WHEREFORE" clause, Applicant respectfully requests denial of the relief sought therein, and instead requests that the present Notice of Opposition be dismissed with prejudice, and that Applicant's Mark be granted a Notice of Allowance.

Applicant's Affirmative and Other Defenses to the Notice of Opposition

1. The Notice of Opposition fails to state a cause of action upon which relief may be granted.

2. Opposer's claims are barred in whole or in part by the doctrine of estoppel, unclean hands, waiver, laches and/or acquiescence.

3. Applicant has priority of use.

4. The scope of Opposer's trademark rights, if any, are not broad enough to preclude Applicant's use and registration of Applicant's Mark.

5. Consumer confusion is not likely between Applicant's Mark and Opposer's Marks.

6. Applicant presently has insufficient knowledge or information upon which to form a belief as to whether it has additional, as yet unstated, affirmative defenses and claims for relief available. Applicant reserves the right to assert additional affirmative defenses and other claims for relief for which Applicant has developed factual support pending the outcome of discovery or otherwise.

WHEREFORE, Applicant having fully answered the Opposition, Applicant respectfully prays:

- (i) that the Opposition be dismissed and/or denied in its entirety with prejudice;
- (ii) that judgment be entered in favor of Applicant on the Opposition and each and every claim and count thereof;
- (iii) that a Notice of Allowance be issued to Applicant for Applicant's Mark, as applied for in Application Serial No. 85665054; and
- (iv) that Applicant be granted such other and further relief as the Board deems just and proper.

Frijouf, Rust & Pyle, P.A.

May 13, 2015

Date

/s/ Daniel R. Frijouf

Daniel R. Frijouf
Frijouf, Rust & Pyle, P.A.
201 East Davis Blvd
Tampa, Florida 33606
Tel: 813.254.5100
Fax: 813.254.5400
frijouf@frijouf.com
dan@frijouf.com
Attorneys for Applicant

CERTIFICATE OF SERVICE

It is hereby certified that this Answer was furnished by United States Mail postage prepaid upon Ms. Mary Sotis of Frankfurt, Kurnit, Klein & Selz, PC of 488 Madison Avenue New York, NY 10022 this 13 day of May 2015.

/s/ Daniel R. Frijouf

Daniel R. Frijouf